SMUCKER'S

Since 1897

May 29, 2008

The Honorable John D. Dingell
Chairman
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Bart Stupak
Chairman
Subcommittee on Oversight and Investigations
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: The J.M. Smucker Company Response to May 8, 2008 Inquiry

Dear Chairman Dingell and Chairman Stupak:

We are writing this letter in response to your May 8th request to provide the House Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations ("the Committee") with information concerning possible microbiological or chemical contamination of food processed and sold by The J.M. Smucker Company ("J.M. Smucker" or "the Company"). We previously submitted a letter on May 23rd that contained confidential information in the text of the letter. The confidential information in this letter is found in separate attachments in the interest of facilitating your Committee's handling of this proprietary data. We ask that you replace our earlier letter with this letter.

When preparing this response, we focused primarily on the hold and release records in our electronic database, which contains the results of testing for microbiological and chemical contaminants. We also contacted the quality managers at each of our manufacturing facilities and asked them to review the microbiological and chemical contaminant testing data in their facility's hold and release records. Since 2000, J.M. Smucker has acquired numerous companies and expanded our portfolio of food products. We have included in our response information that existed in the files of these businesses before our acquisition, even though we did not exert any control over the companies' practices. We also have divested companies since 2000 and we have included information in our files that we have retained from those divested companies.

Unfortunately, we are unable to accommodate the Committee's request for records dating from January 2000. The J.M. Smucker Record Retention Policy specifies that quality records should be maintained for five years. The quality records in our electronic database include data on microbiological and chemical contaminants and would have been deleted from that database

after five years. If we still had in our electronic database a responsive file that is more than five years old, we would have included it in our response.

Our response covers product sold by the Company in the United States, whether manufactured domestically or at a foreign facility. The response does not include products sold or distributed in foreign markets, whether made domestically or abroad.

The attachments to this letter are marked "Confidential" and contain trade secrets and confidential commercial information of the Company. While we understand the Committee is not legally bound to protect confidentiality, we ask that you respect the confidential and proprietary nature of this information. In the event you intend to disclose any of the information provided in the attachments to any third-party, it would be greatly appreciated if we could be given 72 hours advance notice.

For your convenience, we first repeat the question and then provide our response.

Question #1: *A list of all food recalls and food safety alerts issued by your company. For each recall or safety alert, please provide the date of the recall or alert, the product and brand affected, and the reason for the recall or alert. If the food was affected by microbial or chemical contamination, please identify the contaminant.*

Attachment 1 contains all food recalls conducted by the Company since January 1, 2000. We take great pride in fact that we are aware of only three recalls in the over 100 year history of J.M. Smucker.

Question #2: *For each brand or kind of product, please list all instances when internal microbiological testing was found to be positive for the presence of E. coli, Salmonella, Cyclospora cayetanensis, Cryptosporidium, hepitis A, Clostridium botulinum, or Listeria in excess of the highest limit acceptable to the Food and Drug Administration (FDA) or any State regulatory authority.*

We searched our electronic database for microbiological testing involving the organisms identified above for each brand or kind of product marketed by J.M. Smucker. We do not analyze many of our finished products for these microorganisms because these organisms are unlikely to be found in many of our products given the manufacturing process and physical properties of the products. We do perform microbiological testing on those finished products where there is the potential for the organism to survive the manufacturing process. We only test for three organisms, however, *E. coli*, *Salmonella*, and *Listeria*. Note, we test for the generic category of *E. coli* and *Listeria*, which includes many strains that are non-pathogenic and considered unharmful.

When testing reveals the presence of *Salmonella*, or the generic forms of *E. coli* and *Listeria*, the product is put on hold and further testing is conducted to isolate the source of the contamination. We destroy product that has the potential to be contaminated, regardless of whether it exceeds a level considered "acceptable" by FDA or a state agency. While FDA has not established an acceptable level for *Listeria innocua* or generic *E. coli*, out of an abundance of caution we will destroy product that our testing indicates has the potential to contain these organisms and these

products do not enter commerce. We also have tested for the presence of *Listeria monocytogenes*. We similarly destroy product and would not introduce into commerce products that had the potential to contain *Listeria monocytogenes*. Attachment 2 contains the data responsive to this question.

Question #3: *For each brand or kind of product, please list the instances when internal testing was found to be positive for the presence of a chemical contaminant at levels in excess of the highest limit acceptable to FDA or any State regulatory authority.*

We reviewed our electronic files for test results on our products for chemical contaminants that exceed a level acceptable to FDA or any state and have placed this information in Attachment 3. The testing for chemical contaminants on our finished products is limited to patulin and aflatoxin. When our testing revealed the presence of these contaminants at levels in excess of the level considered acceptable by FDA or any State regulatory authority, we destroyed the product.

Question #4: *For products imported into the United States for handling or processing by any facility operated by your firm, please list the instances when internal or outside laboratory testing was positive for the presence of either a chemical or microbiological contaminant in excess of FDA or State regulatory limits.*

J.M. Smucker is a U.S. based company that primarily manufacturers and sells products in the United States. When possible, we try to source our ingredients domestically. We also try to work exclusively with those ingredient suppliers with whom we have developed a trusted business relationship. We choose suppliers with integrity and who treat J.M. Smucker as a business partner. Our suppliers recognize we all have a common interest in ensuring the quality of the materials used in our products.

Unfortunately, we recognize that in today's global market there have been instances in which unscrupulous suppliers have introduced into commerce ingredients that have been economically adulterated. By working with experienced and reputable suppliers, we minimize the likelihood that we will bring any such ingredients into our facilities. We also routinely require certificates of analyses to accompany our raw materials. As an added precaution, there are instances when we will analyze product, particularly if it has been imported, to confirm the quality of our raw materials.

We reviewed our electronic database for test results on imported products identifying the presence of either chemical or microbiological contaminants in excess of FDA or state limits. The two instances reported in Attachment 4 reflect testing performed on imported ingredients sourced from third party suppliers for use at our Chico, California facility. We refused these ingredients, placed them on hold, and they will be returned to the supplier.

Question #5: *For each of the above items, please specify whether FDA was notified, and if not, why not.*

We notified FDA of the instances in which our products contained a contaminant that resulted in a recall. The results from the internal testing summarized in the attachments reveal that we destroyed product that exceeded internally acceptable levels for microbiological and chemical

contaminants. In some instances our internal levels are more restrictive than those considered acceptable by FDA or state agencies.

Question #6: *Please supply a list of all instances where FDA or any State regulatory authority was denied entrance to any facility, foreign or domestic, or denied access to any records regarding microbiological or chemical testing performed on products processed at the facility. This request encompasses denials of initial requests for entry or any such testing record regarding of whether the plant or its records were to be made available for inspection at a later date.*

We reviewed the post inspection report that FDA generated after inspections of each of our manufacturing facilities. Based on the review of these reports, which contain a "Denial" section, we are unaware of any instance in which we denied FDA or a state regulatory agency entry to these facilities. While a plant manager may contact the legal department prior to an inspection, it is company policy to permit all inspections. It is also the Company's policy to disallow the taking of photographs or video inside our facilities. As a result, we typically have not allowed such activities, though on rare occasions, we have made exceptions and permitted the taking of photographs.

We also are unaware of any instance in which we have denied FDA or state agencies access to any records regarding microbiological or chemical testing performed on products processed at our facilities. We are aware of instances in the past several years in which an FDA or state investigator has asked to review our records on chemical or microbiological testing and we have granted access.

* * *

The information contained in this letter demonstrates the extent to which the controls implemented by J.M. Smucker have successfully prevented or eliminated the introduction into commerce of food that contains chemical or microbiological contaminants that would render the food unsafe or adulterated. This is unsurprising given that the safety of our products is of paramount importance to us. Indeed, the success of our business depends on providing consumers with high quality products – products that are safe, wholesome, and good tasting – from a brand they can trust.

We have spent considerable time and effort responding to the Committee's inquiry within the specified response time. We have tried our best to identify all responsive documents and believe we have done so. If, however, we find additional responsive documents, we will file a supplemental response. We also have included in our response information that goes beyond the scope of your initial request. We also do not view this submission as waiving, any rights, privileges, or immunities.

If we can answer any questions concerning the information provided herein, please do not hesitate to contact us.

Respectfully submitted,

Timothy P. Smucker
Chairman and Co-Chief Executive Officer
The J.M. Smucker Company

Albert W. Yeagley
Vice President- Quality Assurance
The J.M. Smucker Company

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable John Shimkus, Ranking Member
Subcommittee on Oversight and Investigation